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I. Introduction

1. At their twenty-sixth meeting, the treaty body chairpersons strongly condemned intimidation and reprisals against persons seeking to engage with the treaty bodies (see A/69/285, para. 107). They invited all treaty bodies that had not yet done so to establish a rapporteur for reprisals to take such steps as were necessary to prevent, protect against, investigate and pursue accountability for acts of intimidation or reprisals (ibid., para. 109).

2. The chairpersons also decided to include reprisals as a standing item on the agenda of their annual meeting and to engage with other bodies working to protect human rights defenders and other right holders from reprisals (ibid., para. 110).

3. With a view to developing a system-wide approach towards reprisals, the Chairpersons further decided to develop and adopt a joint treaty body policy against reprisals at their twenty-seventh meeting (ibid., para. 111). They indicated that any such policy should be part of a more general approach to reprisals by the relevant United Nations human rights mechanisms.

4. Currently, there are variations with regard to the methodology applied by the different treaty bodies in addressing reprisals against persons and groups engaging with them. The present note contains an overview of existing treaty body policies and practices with respect to reprisals resulting from engagement with the treaty bodies.

II. Treaty bodies

5. The present chapter presents an overview of treaty provisions and clauses in treaty bodies' rules of procedure related to reprisals, as well as the policies and practices treaty bodies have in place to address reprisals against individuals and groups engaging with them.

A. Reprisals and the treaty body strengthening process

6. While action by individual treaty bodies to address reprisals against persons engaging or seeking to engage with them predates the treaty body strengthening process, the process has tended to serve as a catalyst for activating treaty bodies that were not previously engaged on this matter.

7. In her report on strengthening the human rights treaty body system of 26 June 2012 (A/66/860), the then United Nations High Commissioner for Human Rights recommended that all treaty bodies take urgent and consistent measures in case of reprisals against human rights defenders after engagement with the treaty body system, including through ensuring mechanisms for action and appointing focal points in the treaty bodies to draw attention to such cases. In addition, it was proposed that the treaty bodies act through other relevant mechanisms, such as relevant special procedures and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

8. The General Assembly, in its resolution 68/268 on strengthening and enhancing the effective functioning of the human rights treaty body system, strongly condemned all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies, and urged States to take all appropriate action, consistent with the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms and all other relevant human rights instruments, to prevent and

eliminate such human rights violations (para. 8). At their twenty-sixth meeting, in June 2014, the chairpersons of the 10 treaty bodies welcomed that condemnation by the Assembly.

B. Provisions on reprisals in the international human rights treaties

9. The following human rights treaties contain explicit provisions that spell out the State party's responsibility to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the committee: the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Optional Protocol to the Convention against Torture, the International Convention for the Protection of All Persons from Enforced Disappearance, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (see annex I).

10. The non-disclosure of the identity of the authors of individual communications as a preventive measure against reprisals is envisaged in several treaties. Where disclosing the identity of an applicant may put him or her at risk, the committee may also withhold information from the respondent (State party) that might reveal the petitioner's identity.

C. Clauses on reprisals in treaty body rules of procedure

11. The following treaty bodies include clauses in their rules of procedure that reconfirm the responsibility of States to ensure the protection of individuals from intimidation and reprisals for their cooperation with the treaty bodies: the Committee on the Elimination of Discrimination against Women, the Committee on the Rights of Persons with Disabilities, the Committee on Enforced Disappearances, the Committee on Economic, Social and Cultural Rights and the Committee on the Rights of the Child (see annex II).

D. Constructive dialogue

12. Many treaty bodies urge States parties during the constructive dialogue to ensure that individuals and non-governmental organizations (NGOs) that provide information to the respective treaty body are not subjected to reprisals, in some cases expressing concern about restrictions on the work of human rights defenders and lawyers, and retaliation against them.[1]

E. Protection measures

13. When a complainant or a member of his or her family has alleged that they fear reprisals for filing a complaint to the Committee against Torture or the Human Rights Committee, those committees frequently request the relevant State party to adopt protection measures. They may, for example, request the State party to refrain from intimidation or pressure and to adopt all measures necessary to protect the life, safety and personal integrity of the author of the communication and of his or her family member(s). The State party is

[1] See, for example, E/C.12/2014/SR.18.

also requested to provide the Committee, within a specific deadline, with information on the measures taken by State authorities to comply with the request.

F. Overview of treaty body policies and practices on reprisals

14. Individual treaty bodies have taken a range of measures to address reprisals against persons engaging with them. Such measures include adopting a policy on reprisals; sending letters to States parties; soliciting intervention by special procedures of the Human Rights Council or the United Nations High Commissioner for Human Rights; notifying the Secretary-General; including information on cases of reprisal in the annual report of the committee; posting, on the OHCHR website, exchanges of letters with States parties on allegations of reprisals; issuing public statements by the committee; making reference to reprisals in concluding observations and in views or decisions on individual cases; and using early warning and urgent action procedures.

15. With the exception of the Committee on the Elimination of Discrimination against Women and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, all treaty bodies have appointed one or more rapporteurs or a focal point on reprisals, as detailed below.

Committee against Torture

16. In November 2013, the Committee against Torture adopted its policy on reprisals (CAT/C/51/3), which is posted on the OHCHR webpage. The Committee has designated two rapporteurs to follow up on allegations of reprisals under the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment: one for cases regarding those who provide information to the Committee under article 19 of the Convention in respect of periodic reports and follow-up on measures to give effect to the undertakings in the Convention, and one for cases regarding those who engage in the individual complaint procedure under article 22 of the Convention and in inquiries under article 20, or who otherwise participate in those procedures.

17. In its policy, the Committee reminded all States parties that, in accordance with their obligations under the Convention, they were to refrain from reprisals against individuals, groups and institutions that sought to cooperate with or otherwise assist the Committee, whether by providing it with information, or by communicating about the findings or actions of the Committee, advancing compliance with reporting obligations or assisting the Committee in the pursuit of any of its functions.

18. According to the policy, when claims are received, the rapporteurs will communicate with the complainants, authorities in the relevant State party, OHCHR and the Secretary-General to request the immediate cessation of such acts. In addition, the Committee may ask its rapporteurs or other members to visit the States parties and places where the reprisals occurred and request local institutions, NGOs and OHCHR representatives in the country to conduct follow-up interviews and/or visits to places where the individuals or groups concerned are based. The Committee may also request further intervention of other relevant United Nations bodies and officials, including the United Nations High Commissioner for Human Rights.

19. Finally, the policy states that the Committee will report publicly, including in statements posted on its website and in its annual report, on the cases of reprisals it encounters and on measures taken to end them. It will also notify the Secretary-General for further action.

20. The Committee has created a dedicated web page where letters to States parties on cases of reprisals are posted publicly.[2] In February 2015, seven cases were listed on that web page.

21. The Committee has issued press releases on specific incidents of reprisal. On 23 December 2013, it issued a press release[3] expressing grave concern after a court in one State party ordered an NGO that had provided information to the Committee to register as a "foreign agent".

22. In November 2014, the Committee decided that the rapporteurs on reprisals would prepare a document on concrete action against reprisals. That document was to be presented to the Committee at its fifty-fourth session, to be held from 20 April to 15 May 2015.

23. In one individual complaint (petition), the Committee found a violation of article 13 of the Convention against Torture for intimidation and threats during the investigation of the case before the Committee (communication No. 433/2010, *Gerasimov* v. *Kazakhstan*, decision adopted on 24 May 2012).

Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

24. In February 2012, the Subcommittee on Prevention of Torture established a working group on reprisals, composed of six Subcommittee members, with the mandate to draft a policy on reprisals. In November 2013, the working group formulated proposals, which were reflected in the seventh annual report of the Subcommittee (see CAT/C/52/2, paras. 63–68). The policy was reviewed and formally adopted by the Subcommittee in February 2015 and posted on the OHCHR website.[4] It will be kept under constant review.

25. The Subcommittee appointed one of its members as its focal point on reprisals to oversee the implementation of the policy, to coordinate the activities of the Subcommittee relating to reprisals and to liaise with the relevant national, regional and international bodies, as appropriate.

26. According to the Subcommittee policy, prior to any visit, the Subcommittee will consider the track record of the relevant State with regard to reprisals, appoint a member of the Subcommittee delegation as its focal point for reprisals, and ask the State to distribute a fact sheet on reprisals and the Subcommittee's reprisals policy to all relevant interlocutors. Areas of concern will be raised by the Subcommittee with the State party, either in a confidential letter or in a meeting with the State party's permanent mission in Geneva.

27. If, during a visit, the Subcommittee is made aware of reprisals carried out by the State party, it will take all appropriate measures. Such measures might include communicating with the appropriate government authorities or with officials responsible for the detention facilities in question in order to highlight areas of concern; communicating with the diplomatic missions of other States parties; conducting follow-up visits to monitor the situation, or asking local national preventive mechanisms or specialized NGOs to conduct such visits; adapting interview techniques; requesting the intervention of other United Nations bodies; speaking to the local or international media; and, in extreme cases, withdrawing the Subcommittee's delegation from the country.

[2] www.ohchr.org/EN/HRBodies/CAT/Pages/ReprisalLetters.aspx.

[3] Available from www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=14137&LangID=E.

[4] Available from www.ohchr.org/EN/HRBodies/OPCAT/Pages/OPCATIntro.aspx.

28. Following each visit, the delegation's focal point for reprisals is responsible for following up on the Subcommittee's concerns and advising the head of the delegation of any measures that need to be implemented to prevent reprisals. The Subcommittee then cooperates with all relevant United Nations bodies and other international, regional and national mechanisms to ensure that reprisals are prevented. It does so by keeping States parties to the Optional Protocol to the Convention against Torture informed of developments relating to reprisals, establishing a database of reprisal cases and cooperating with national preventive mechanisms to promote common policies to prevent reprisals.

29. The Subcommittee met in plenary with the European Committee for the Prevention of Torture in November 2013 and both bodies agreed to join efforts to prevent and respond to reprisals, including by issuing joint statements and policy papers.

Human Rights Committee

30. In its concluding observations with respect to two States parties, the Human Rights Committee urged the States parties to take the measures necessary to protect individuals who had provided information to the Committee.[5] The Committee had expressed concern that such individuals had been the subject of pressure or threats for having provided the Committee with information under the reporting procedure.

31. In July 2014, the Human Rights Committee appointed a rapporteur on reprisals.

Committee on Economic, Social and Cultural Rights

32. In concluding observations, the Committee on Economic, Social and Cultural Rights urged two States parties to protect human rights defenders and labour activists, as well as their lawyers, against any form of intimidation, harassment, threat, arrest, detention or retaliation, including for taking up cases of violations of economic, social and cultural rights.[6] The Committee also called on the States parties to ensure that all allegations of reprisals and abuse were promptly and thoroughly investigated, and that perpetrators were brought to justice.

33. In November 2014, the Committee appointed a focal point on reprisals.

Committee on Enforced Disappearances

34. In November 2013, the Committee on Enforced Disappearances adopted a document on the relationship of the Committee with civil society actors, in which it referred to reprisals (see CED/C/3, paras. 25–26). In order to protect civil society actors who have sought to address and/or cooperate or have addressed and/or cooperated with the Committee, from intimidation, persecution or reprisal, the Committee may consider, at its discretion or at the request of the author, that the information, documentation and statements received be kept confidential and decide not to make them public.

35. Civil society actors, in particular NGOs, also play an important role in providing to the Committee reports on cases of intimidation, persecution or reprisal against any individual who has sought to address and/or cooperate or has addressed and/or cooperated with the Committee, by submitting information in relation to the States parties' reporting procedure under article 29, requests for urgent actions, individual communications or information relevant to violations of the Convention or by having met the Committee during its country visits.

[5] See CCPR/C/MDV/CO/1 and CCPR/C/KGZ/CO/2.

[6] See E/C.12/CHN/CO/2 and E/C.12/VNM/CO/2-4.

36. In September 2014, the Committee adopted a document on its relationship with national human rights institutions, in which it referred to reprisals in similar terms as above (see CED/C/6, paras. 39–40).

37. In November 2013, the Committee decided to appoint a rapporteur on reprisals.

Committee on the Rights of Persons with Disabilities

38. In April 2013, the Committee on the Rights of Persons with Disabilities decided to appoint one of its members as a focal point on reprisals. The focal point was tasked to report to the Committee on situations of reprisals against persons and organizations engaging with the work of the Committee and to provide advice to the Committee on the proper course of action to adopt in cases of reprisal. The Committee has addressed situations of reprisal under its early warning and urgent action procedures.

Committee on the Rights of the Child

39. In September 2014, the Committee on the Rights of the Child decided to create the position of rapporteur on reprisals to deal with allegations of reprisals against individuals and groups on the basis of their cooperation with the Committee. In January 2015, the Committee appointed the rapporteur on reprisals.

Committee on the Elimination of All Forms of Racial Discrimination

40. In August 2014, the Committee on the Elimination of All Forms of Racial Discrimination established the position of rapporteur on reprisals and decided to appoint the rapporteur at its following session.

Committee on the Elimination of Discrimination against Women

41. In March 2015, the Committee on the Elimination of Discrimination against Women considered the invitation, extended by the treaty body chairpersons at their twenty-sixth meeting, to establish a rapporteur on reprisals to take such steps as were necessary to prevent, protect against, investigate and pursue accountability for acts of intimidation or reprisals. The Committee decided to mandate its Chairperson and Bureau to deal with allegations of reprisal against individuals as a consequence of communicating or seeking to communicate with the Committee. Accordingly, it decided that the Chairperson, at the request of the Bureau, would bring the matter to the attention of the State party concerned and seek from it written explanations and/or clarifications in relation to allegations received that the State party had failed to ensure that individuals under its jurisdiction were not subjected to any such reprisals.

Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

42. The Committee on Migrant Workers will consider at its session in April 2015 the recommendation made by the treaty body chairpersons at their twenty-sixth meeting on establishing a rapporteur on reprisals.

G. Joint statements

43. Enhanced coordination by human rights mechanisms in relation to reprisals was exemplified by the joint statement by the Committee against Torture, the Subcommittee on Prevention of Torture, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Board of Trustees of the United Nations Voluntary Fund for Victims of Torture, issued on 26 June 2012 to mark the United Nations

International Day in Support of Victims of Torture. In the statement, States were reminded of their obligation to protect and to ensure that individuals did not face reprisals or intimidation for cooperating with United Nations bodies.

44. In November 2013, the Committee on Enforced Disappearances and the Working Group on Enforced or Involuntary Disappearances issued a joint statement making clear that they were vigilant with respect to any form of intimidation and reprisals and welcoming the decision of the Human Rights Council to request the Secretary-General to designate a United Nations-wide senior focal point.

H. Treaty body input to the annual report of the Secretary-General on reprisals

45. Policy developments in the area of reprisals that concerned treaty bodies have been reflected annually in the Secretary-General's reports on reprisals issued between 2011 and 2014.

46. There is no centralized system for documenting cases of reprisals for engagement with treaty bodies, but such cases can be included in the Secretary-General's report on reprisals.

III. United Nations Voluntary Fund for Victims of Torture

47. The United Nations Voluntary Fund for Victims of Torture financially supports civil society organizations that provide direct assistance to victims of torture and their family members. Assistance to victims is understood in a comprehensive manner and includes humanitarian, medical, psychological, social and legal support. In 2015, the Fund will partner with 187 centres of rehabilitation and/or legal clinics, where hundreds of medical doctors, lawyers, psychiatrists, psychologists and social workers protect and promote the human rights of victims by documenting torture and treating its sequelae. The secretariat of the Fund is regularly seized of cases of intimidation and reprisals against those who are supported by the Fund.

48. To address those situations, the Board and the secretariat of the Fund have developed procedures, including the non-disclosure of the name and location of the organization supported, if requested by the applicant. The secretariat of the Fund monitors the situation of the grantees at risk, including, where feasible, in coordination with OHCHR field presences, and channels information to relevant special rapporteurs.

IV. Human Rights Council

49. The question of intimidation and reprisals for cooperating with the United Nations, its representatives and mechanisms in the field of human rights has been discussed, first by the Commission on Human Rights and then by the Human Rights Council, for many years, and has been included in resolutions. In the outcome of the review of its work and functioning, the Human Rights Council strongly rejected any act of intimidation or reprisal against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, and urged States to prevent and ensure adequate protection against such acts (see General Assembly resolution 65/281, annex, para. 30).

50. In its resolution 12/2 on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, adopted by consensus in 2009, the Human Rights

Council urged Governments to prevent and refrain from all acts of intimidation or reprisal against those who:

(a) Seek to cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights, or who have provided testimony or information to them;

(b) Avail or have availed themselves of procedures established under the auspices of the United Nations for the protection of human rights and fundamental freedoms, and all those who have provided legal or other assistance to them for this purpose;

(c) Submit or have submitted communications under procedures established by human rights instruments, and all those who have provided legal or other assistance to them for this purpose;

(d) Are relatives of victims of human rights violations or of those who have provided legal or other assistance to victims.

51. Several other resolutions adopted by the Human Rights Council touch upon reprisals, for example resolution 24/21, entitled "Civil society space: creating and maintaining, in law and in practice, a safe and enabling environment".

52. Reprisals for cooperation with the Human Rights Council may take place in Geneva or in a defender's home country. Examples include: pressure to prevent travel to Geneva (including arrests and non-deliverance of documents), intimidation of and threats to civil society actors or their families, smear campaigns against those participating or cooperating with the Council, including from government officials, pressure to cancel side events or reconsider panellists at those events, intimidation to remove speakers from NGO speaker lists, and filming and taking photographs of human rights defenders in Geneva.

53. The role of the President of the Human Rights Council is to ensure that the Council proceeds with the appropriate level of dignity and respect in its work to promote and protect human rights, which implies that members of the Council and all observers, including NGOs, must be able to contribute freely to the Council's work. When incidents of harassment of civil society representatives are raised, the President reacts, including through public statements and meetings and exchanges of letters with the delegations of the States concerned.

A. Annual report of the Secretary-General on reprisals

54. The Secretary-General's reporting mandate on reprisals covers cases of intimidation and reprisals for cooperation with the United Nations, its representatives and mechanisms in the field of human rights. In its resolution 12/2, the Human Rights Council invited the Secretary-General to submit to it an annual report containing a compilation and analysis of any available information, from all appropriate sources, on alleged reprisals against persons referred to in paragraph 1 of the same resolution, as well as recommendations on how to address the issues of intimidation and reprisals.

55. Consistent with the mandate given to the Secretary-General in resolution 12/2, the report may include cases of intimidation and reprisals due to cooperation with United Nations organizations and specialized agencies in the field of human rights, including cases in relation to the Human Rights Council, its universal periodic review and special procedures; human rights treaty bodies; OHCHR, its field presences and human rights advisers; United Nations country teams; human rights components of peacekeeping missions and other parts of the Secretariat or specialized agencies working in the field of human rights. The report also contains a follow-up section in which information is provided

on cases raised in previous reports. In addition, the report contains information on action taken by various actors to address reprisals and intimidation at the national, regional and international levels. The report is presented annually to the Human Rights Council at its September session.

56. A dedicated e-mail address has been created to receive information on alleged cases of reprisal or to follow up on cases reported in previous reports (reprisals@ohchr.org). The informed consent of the alleged victim is a prerequisite for the information to be included in the Secretary-General's report.

57. As cases reported in the Secretary-General's report show, reprisals may target not only human rights defenders, but anyone who cooperates with the United Nations. It may be a prisoner providing testimony to a mandate holder, an official providing information to a special rapporteur or activists working on development or the environment. Reprisals may also target lawyers or family members of persons cooperating with the United Nations.

B. Human Rights Council resolution 24/24

58. In September 2011, the Human Rights Council decided to convene a panel discussion under agenda item 5 on intimidation or reprisals against individuals and groups who cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights.[7]

59. The panel discussion, which took place in September 2012, provided an opportunity to review the action of all stakeholders on reprisals and make a comprehensive assessment. The main conclusion was the need for unified and coordinated action against reprisals. The panel recommended, inter alia, the designation of a mediator, ombudsman or focal point within the United Nations system on reprisals. The summary report of the panel discussion was presented to the Council in March 2013 (A/HRC/22/34); all States were given the opportunity to provide their reaction to the panel discussion under agenda item 5. A group of 52 States made a joint statement in which they referred to the summary report as a road map for action and indicated that it would form the basis for a resolution to be submitted for consideration in September 2013.

60. In the report submitted by the Secretary-General to the Human Rights Council at its the twenty-fourth session (A/HRC/24/29 and Corr.1), the Secretary-General again referred to the proposal to designate a focal point within the United Nations on reprisals, indicating that it should be thoroughly examined and considered. He reiterated his support for a strong United Nations response to reprisals in a statement to the High-level Event on Supporting Civil Society, convened on 23 September 2013 in New York.[8]

61. In June 2013, the Human Rights Council adopted, by vote, resolution 24/24, in which it, inter alia, requested the Secretary-General, in cooperation with the United Nations High Commissioner for Human Rights, to designate, within the existing structures, a United Nations-wide senior focal point to engage with all stakeholders, in particular Member States, to promote the prevention of, protection against and accountability for reprisals and intimidation related to cooperation with the United Nations, its representatives and mechanisms, and to encourage a prompt and effective unified response to such acts by sensitizing the United Nations system as a whole by facilitating cooperation and coordination among all stakeholders, with the overall objective of supporting and

[7] Decision 18/118.

[8] Available from www.un.org/sg/statements/index.asp?nid=7116.

promoting cooperation with the United Nations in the field of human rights, including cooperation with civil society.

62. The resolution contains other operative elements, such as an encouragement to States to provide information, as appropriate, to the Human Rights Council on all measures taken to prevent and address acts of intimidation or reprisals against those who seek to cooperate, cooperate or have cooperated with the United Nations, its representatives and mechanisms in the field of human rights; an encouragement to States to consider the establishment of a national focal point; and an invitation to the Secretary-General to include, in his annual report on cooperation with the United Nations, its representatives and mechanisms in the field of human rights, information on the activities of the United Nations-wide senior focal point, the different measures hampering cooperation with United Nations human rights mechanisms, and best practices of international, regional and national human rights bodies and institutions that address cases of intimidation or reprisals against those cooperating with them.

63. When considering the report of the Human Rights Council[9] containing resolution 24/24, the General Assembly decided by vote[10] to defer consideration of that resolution until the end of its sixty-eighth session. On 15 September 2014, the Assembly decided to further defer consideration of Human Rights Council resolution 24/24 to its sixty-ninth session.

64. In his reports to the Human Rights Council, the Secretary-General has repeatedly called on the international community to do more to counter reprisals and to consider ways to ensure a stronger and more coordinated response, including at the level of the United Nations. He raised the issue of reprisals against those who advocate for human rights, including through cooperation with the United Nations, in his statement to the Council in September 2012. Both the Secretary-General and the High Commissioner have supported the designation of a United Nations focal point on reprisals.

V. Special procedures of the Human Rights Council

65. Intimidation and reprisals can occur in relation to those who send information to special procedures mandate holders, participate in their meetings or cooperate with them in the context of their country visits. Mandate holders are often concerned about the security of the persons they have met during their visits and are not in a position to provide them with the necessary protection.

66. In several resolutions of the Human Rights Council establishing or renewing the mandates of special procedures, the importance of working with individuals from civil society and receiving information from all credible sources, including victims of violations, has been highlighted. The ability of victims, their family members, witnesses, human rights defenders and members of civil society to raise concerns with the mandate holders without fear of retaliation is vital to the ability of mandate holders to discharge their respective mandates. In certain resolutions on mandates of special procedures, such as those of the Working Group on Arbitrary Detention and the Special Rapporteur on the question of torture, the Human Rights Council makes specific reference to the issue of reprisals.

67. The terms of reference for fact-finding missions by special rapporteurs and representatives of the Commission on Human Rights, which were assumed by the mandate holders of the Human Rights Council, stipulate that special procedures should be given

[9] *Official Records of the General Assembly, Sixty-eighth Session, Supplement No. 53* (A/68/53).
[10] Resolution 68/144.

assurance by Governments that "no persons, official or private individuals who have been in contact with the special rapporteur/representative in relation to the mandate will for this reason suffer threats, harassment or punishment or be subjected to judicial proceedings" (see E/CN.4/1998/45, annex V).

68. Addressing reprisals and intimidation against those who cooperate with the United Nations in the field of human rights has been a priority for special procedures for many years. They have consistently raised concerns individually and as a system. Special procedures mandate holders do not limit themselves to addressing allegations of intimidation and reprisals in relation to cooperation with special procedures; they also address reprisals against individuals and groups for cooperating with the United Nations, its representatives and mechanisms in the field of human rights.

69. The Manual of Operations of the Special Procedures of the Human Rights Council contains guiding principles on reprisals for special procedures mandate holders; namely, they are to take all feasible precautions in carrying out their mandate, in particular as it relates to communications and country visits, to ensure that sources of information are not subjected to retaliation. The Manual specifies that the source is normally kept confidential in communications sent to Governments, unless the source agrees to have its identity revealed, and that in discussions with Government representatives during a country visit mandate holders must receive appropriate guarantees from the Government, preferably in writing, to ensure the protection of witnesses and the absence of reprisals against any person cooperating with the mission in any way. The special procedures are considering revising the Manual to include a specific chapter on reprisals and practical recommendations. The induction training for new mandate holders also draws special attention to the issue of reprisals.

70. Special procedures rely on a variety of actions when faced with cases of intimidation and reprisals. They include confidential and public actions, including meeting with government officials, sending communications to States and other stakeholders, raising the cases with United Nations representatives in the field and at headquarters, including the Secretary-General, the High Commissioner and the President of the Human Rights Council, and raising the cases in public statements, press releases and reports to the Council and the General Assembly or during their interactive dialogues with those two bodies. All options are considered on a case-by-case basis, always with the consent of the persons concerned and in line with the principle of "do no harm".

71. Increasingly, special procedures are acting jointly on such cases, thereby maximizing their impact. The identification and determination of the different mandates to be involved is made by the mandate holders based on the specificities of each case. In addition, the Coordination Committee of special procedures can assist in raising awareness about cases when requested by the relevant mandate holders. In taking action against reprisals, special procedures have consistently expressed their willingness to contribute to and support a coherent response of the United Nations system as a whole to reprisals.

72. Intimidation and reprisals against those who cooperate with the United Nations in the field of human rights, in particular with special procedures, has been discussed as a matter of priority during annual meetings of special procedures.[11] It is also a priority for the Coordination Committee, which can assist mandate holders in addressing specific cases and raise them with relevant interlocutors. Special procedures also raise the issue systematically with the Secretary-General, the High Commissioner, the President of the Human Rights Council and other United Nations representatives. Furthermore, it is part of their regular

[11] See the past two reports, A/HRC/28/41 and A/HRC/24/55 and Corr.1.

dialogue and cooperation with regional organizations, NGOs and national human rights institutions.

73. Several special procedures mandate holders have established standard operating procedures to address and give visibility to cases of reprisals to help curb this phenomenon. For example, the Special Rapporteur on extrajudicial, summary or arbitrary executions dedicated a part of his 2009 report to the Human Rights Council (A/HRC/11/2) to the protection of persons cooperating with special procedures from reprisals. The Working Group on Arbitrary Detention also decided to include in its annual report any case brought to its attention of reprisals for cooperation with the Working Group. The Working Group on Enforced or Involuntary Disappearances, in its report to the Council at its twenty-seventh session (A/HRC/27/49), also referred to reprisals.

74. The Special Rapporteur on the situation of human rights defenders indicated in the report she submitted to the Human Rights Council in 2014 (A/HRC/25/55 and Add.3) that during her tenure she had sent out approximately 50 communications on cases of reprisals. The new Special Rapporteur on the situation of human rights defenders indicated in his first reports to the Human Rights Council (A/HRC/28/63) and the General Assembly (A/69/259), in which he outlined his vision for his mandate, that addressing intimidation and reprisals would be among his priorities.

75. Special procedures have also used public opportunities to raise awareness about reprisals. In June 2013, for example, special procedures issued a joint declaration marking the twentieth anniversary of the adoption of the Vienna Declaration and Programme of Action, stressing that special procedures confronted challenges in discharging their mandates, including intimidation and reprisals against those who cooperated with them. The special procedures recommended that States refrain from any act of intimidation and reprisal against those who cooperate with the United Nations in the field of human rights, exercise due diligence to prevent non-State entities from such acts, and ensure adequate protection for those who are subjected to such acts.

Annexes

Annex I

Provisions on reprisals in human rights treaties and their optional protocols

Treaty	*Relevant article*
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Article 13. Each State party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.
Optional Protocol to the Convention against Torture	Article 15. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.
International Convention for the Protection of All Persons from Enforced Disappearance	Article 12, paragraph 1. Each State Party shall ensure that any individual who alleges that a person has been subjected to enforced disappearance has the right to report the facts to the competent authorities, which shall examine the allegation promptly and impartially and, where necessary, undertake without delay a thorough and impartial investigation. Appropriate steps shall be taken, where necessary, to ensure that the complainant, witnesses, relatives of the disappeared person and their defence counsel, as well as persons participating in the investigation, are protected against all ill-treatment or intimidation as a consequence of the complaint or any evidence given. Article 12, paragraph 4. Each State Party shall take the necessary measures to prevent and sanction acts that hinder the conduct of an investigation. It shall ensure in particular that persons suspected of having committed an offence of enforced disappearance are not in a position to influence the progress of an investigation by means of pressure or acts of intimidation or reprisal aimed at the complainant, witnesses, relatives of the disappeared person or their defence counsel, or at persons participating in the investigation.
Optional Protocol to the Convention on the Rights of the Child on a communications procedure	Article 4, paragraph 1. A State party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to any human rights violation, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee pursuant to the present Protocol. Article 4, paragraph 2. The identity of any individual or group of individuals concerned shall not be revealed publicly without their express consent.
Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	Article 13. A State Party shall take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Treaty	*Relevant article*
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women	11: A State Party shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill-treatment or intimidation as a consequence of communicating with the Committee pursuant to the present Protocol.

Annex II

Clauses on reprisals in rules of procedure of treaty bodies

Treaty body	*Relevant rule of procedures*
Committee on Economic, Social and Cultural Rights	Where the Committee receives reliable information that a State party has not complied with its obligations under article 13 of the Optional Protocol to take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any form of ill-treatment or intimidation, it may seek from the State party concerned written explanations or statements clarifying the matter and describing any action it is taking to ensure that its obligations under article 13 are fulfilled. Thereafter, the Committee may request the State party to adopt and take urgently all appropriate measures to stop the breach reported (E/C.12/49/3, rule 20, for communications; rule 35, for inquiries).
Committee on the Elimination of Discrimination against Women	The Committee shall inform the State party that it shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill-treatment or intimidation as a consequence of participating in any hearings in connection with an inquiry [conducted by the Committee], or with meeting the designated members of the Committee conducting the inquiry (HRI/GEN/3/Rev.3, rule 87, para. 4), or as a consequence of communicating with the Committee under the Optional Protocol (ibid., rule 91, para. 1).
Committee on the Rights of the Child (communications procedure)	When the Committee receives reliable information that a State party has not complied with its obligations under article 4, paragraph 1, of the Protocol to take all appropriate measures to ensure that individuals under its jurisdiction are not subjected to any human rights violations, ill-treatment or intimidation as a consequence of communications or cooperation with the Committee, it may request the State party to adopt and take all appropriate measures urgently to stop the breach reported and submit written explanations and clarifications thereon to the Committee. Compliance with this request shall be monitored. The Committee may also issue public statements in this regard and take such action as may be appropriate (CRC/C/62/3, rule 4).
Committee on the Rights of Persons with Disabilities	The Committee shall inform the State party that it shall take all appropriate steps to ensure that individuals under its jurisdiction are not subjected to ill-treatment or intimidation as a consequence of participating in any hearings in connection with an inquiry or with meeting the designated members of the Committee conducting the inquiry (CRPD/C/1, rule 87, para. 4). The Committee, in line with General Assembly resolution 68/268 … strongly condemns all acts of intimidation and reprisals towards individuals and organizations for their contribution to the work of the Committee. The Committee will appoint… a focal point on reprisals who will follow-up and provide advice on situations concerning these cases (Guidelines on the participation of disabled persons' organizations and civil society organizations in the work of the Committee (CRPD/C/11/2, annex II, para. 31), which are an integral part of the Committee's rules of procedure, rule 30, para. 4).
Committee on Enforced Disappearances	Cases of intimidation, persecution or reprisal against relatives of disappeared persons, witnesses to disappearances or their families, members of organizations of relatives and other non-governmental organizations, human rights defenders or individuals concerned with disappearances shall be transmitted by the Committee to the pertinent authorities of the State party, with the request that they take steps to protect persons affected (CED/C/1, rule 63, para. 2).